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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA AT FAIRBANKS

16 JUSTIN ACKER, EMILY ACKER, E.A. (2019),
17 I.A. (2020; JOHN DOE, JANE DOE, JOHN DOE
18 JR. (2020), AND JANE DOE JR. (2016),

19 Plaintiffs,

20 v.

21 PROVIDENCE HEALTH & SERVICES
22 WASHINGTON d/b/a PROVIDENCE ALASKA
23 MEDICAL CENTER, BARBARA KNOX, M.D.,
and BRYANT SKINNER,

Case No. 4:22-cv-00017 SLG

Defendants.

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[PROPOSED]
ORDER GRANTING DEFENDANT KNOX'S MOTION
FOR SUMMARY JUDGMENT

This Court, having considered Defendant Barbara Knox, M.D.'s Motion for Summary Judgment, all responsive pleadings there to, and otherwise being fully apprised of the premises hereby **GRANTS** set Motion.

In so ruling, the Court finds that neither Dr. Knox's medical evaluation of I.A., nor her consultation with John Doe, Jr.'s providers, constituted an "exercise of some right or privilege

1 created by the [government] or a rule of conduct imposed by the [government]." Lugar v.
2 Edmondson Oil Co., Inc., 457 U.S. 922, 937 (1982). Moreover, the 26 U.S.C. §1983 claim is
3 further unsupportable because Dr. Knox is and was not a state actor. None of the recognized
4 exceptions apply to warrant her treatment as a state actor for the purposes of establishing her
5 liability under 26 USC §1983. Plaintiffs' 26 U.S.C. §1983 claim lacks viability. Since Plaintiffs'
6 §1983 allegations against Defendant Providence Health & Services Washington d/b/a Providence
7 Alaska Medical Center are based in entirely upon the actions of its employee, Dr. Knox, the 26
8 U.S.C. §1983 claim is hereby DISMISSED with prejudice as to all parties.

9 Having disposed of the federal claims, the Court now turns its attention to the remaining
10 state action claims.

11 Based upon the evidence before the Court, it has determined that there is no genuine issue
12 of material fact tending to show that Dr. Knox's involvement with I.A. or John Doe, Jr. occurred
13 outside of the context of her role as a member of the Alaska CARES multidisciplinary team.
14 Alaska Statute 47.14.300(h) plainly provides immunity from liability of any member of a
15 multidisciplinary child protection team "brought by reason of the performance of a duty, function
16 or an activity of the team." Dr. Knox's activities relating to the Plaintiffs occurred within the
17 context of her role with the multidisciplinary team, therefore she is immune, and those claims
18 must be dismissed with prejudice. Furthermore, Dr. Knox also enjoys immunity with respect to
19 the reporting of child abuse and/or investigations related thereto pursuant to AS 47.17.050.

20 Finally, notwithstanding the immunity provided by AS 47.14.300(h) and 47.17.033, AS
21 09.55.540 and interpreting caselaw explicitly provide that a medical malpractice action in Alaska
22 must be predicated upon the existence of a physician patient relationship, which did not exist
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1 between Dr. Knox and John Doe, Jr. Accordingly, John Doe, Jr. cannot otherwise assert a viable
2 claim for medical malpractice against Dr. Knox.

3 Therefore, upon resolution of the 26 U.S.C. §1983, no remaining allegations as to Dr.
4 Knox survive judicial scrutiny, and she is hereby **DISMISSED** with prejudice.

5 **It is so ORDERED.**

6 Dated this _____ day of _____, 2023.

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8 THE. HON. SHARON GLEASON
United States District Court Judge, Alaska

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10 **CERTIFICATE OF SERVICE**

11 Pursuant to Civil Rule 5, I hereby certify that on
12 the 13th day of February 2023 a true and correct copy of
13 the foregoing was served CM/ECF electronically on the
14 following person(s):

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